

**VI. THE FCC SHOULD STRICTLY ENFORCE THE TERMS OF SECTION 252(i).  
[SECTION III.B, ¶¶ 269-272]**

Section 252(i) is one of the most important competitive safeguards included by Congress in the 1996 Act. By providing that any carrier can obtain interconnection and network elements on "the same terms and conditions as those provided in the [filed] agreement,"<sup>84</sup> Congress sought to ensure that smaller firms with relatively little bargaining power could reap the benefits of deals struck by larger carriers with superior bargaining leverage. As importantly, the provision should prevent larger carriers from signing sweetheart deals with ILECs which provide them a competitive advantage.

A number of ILECs sought to eviscerate this critical safeguard in their initial comments. Some suggested that they should only have to make agreements available to "similarly situated" carriers.<sup>85</sup> Others said that agreements should be available to other carriers for only a limited time period.<sup>86</sup> Still others argued stridently that carriers should be forced to accept all the terms and conditions of an agreement, and should not be permitted to "pick and choose" only the portions of the agreement which they like or need.<sup>87</sup>

Each of these limitations is inconsistent with the purpose and language of Section 252(i), and should be rejected. The statute provides that a LEC "shall make available any interconnection, service or network element provided under an agreement. . . to any other. .

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<sup>84</sup> 47 U.S.C. § 252(i). *See Notice* ¶¶ 155, 269-272.

<sup>85</sup> GTE, pp. 82-83.

<sup>86</sup> BellSouth, pp. 81-82.

<sup>87</sup> Ameritech, pp. 98-100; USTA, p. 96.

. carrier upon the same terms and conditions. . .<sup>88</sup> The terms "any. . . carrier" do not permit ILECs to limit availability of agreements to "similarly situated" carriers. The language "shall make available" precludes placing time limits on the availability of the agreement. And, the use of disjunctive phrasing in "shall make available any interconnection, service *or* network element" evinces an intent that carriers be able to select only the portions of the agreement which suits their current needs. Thus, the ILEC arguments should be rejected, and ACSI respectfully recommends adoption of proposed ALTS rule Subpart F.607 regarding the "Availability of Agreements to Other Telecommunications Carriers."

**VII. THE FCC MUST ENTERTAIN COMPLAINTS FILED PURSUANT TO SECTION 208 FOR ANY VIOLATION OF THE 1996 ACT. [SECTION III.A, ¶¶ 264-268]**

In the *Notice*, the Commission sought comment on whether parties may file formal complaints for violations of the 1996 Act.<sup>89</sup> Of the commenters which addressed the issue, the vast majority supported continuing use of the Section 208 formal complaint process to enforce provisions of the 1996 Act.<sup>90</sup> ACSI strongly supports this view. It simply is not credible that Congress intended for the FCC to establish comprehensive federal requirements, and then divorce itself from their enforcement. Thus, ACSI urges the Commission to clarify that it will accept and process complaints filed pursuant to Section 208 alleging any violation

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<sup>88</sup> 47 U.S.C. § 252(i).

<sup>89</sup> *Notice* ¶ 41.

<sup>90</sup> *E.g.* CompTel, p. 103.

of the 1996 Act or of any FCC regulations or orders issued thereunder. Indeed, ACSI asks that the Commission establish special expedited procedures for processing such complaints, and appoint a special interconnection "ombudsman" who is charged with the responsibility of marshalling them to a speedy resolution.

#### **VIII. THE ALTS DRAFT RULES SHOULD BE ADOPTED AS A BASELINE FOR FEDERAL INTERCONNECTION REGULATIONS.**

Several commenters have recommended that the Commission adopt general guidelines for the implementation of local competition under the 1996 Act. ACSI strongly believes that the Commission must do more than adopt general guidelines for the implementation of local competition nationwide. The Commission must adopt explicit rules, such as those proposed by ALTS.

Although it is unlikely that any amount of rulemaking by the Commission will eviscerate the need for litigation entirely, ACSI maintains that explicit rules will substantially reduce the areas of conflict between parties and, thereby facilitate negotiations. If the Commission fails to adopt specific rules, the process of negotiation and arbitration will be hopelessly bogged down as parties engage in an endless series of disputes -- the same disputes that every other set of parties will be engaged in. State commissions will be forced to resolve a multiplicity of redundant and unnecessary disagreements that will do nothing but hinder the transition to local competition and overextend the resources of new entrants.

ACSI urges the Commission to use the rules proposed by ALTS as a starting point for comprehensive national local competition structure.<sup>91</sup> ACSI recognizes that other

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<sup>91</sup> See ALTS, Attachment A.

commenters have made valuable suggestions that could supplement or improve upon what ALTS has proposed. But most importantly, ACSI believes that the rules proposed by ALTS are a sound basis upon which the Commission should try to build a national structure for local competition.

### **Conclusion**

For the foregoing reasons, ACSI respectfully requests that the FCC act expeditiously to adopt comprehensive federal rules governing interconnection arrangements under the 1996 Act which are consistent with the principles espoused by ACSI herein and in its initial comments in this proceeding.

Respectfully submitted,

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May 30, 1996

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